

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROOT INC., et al.,

Plaintiffs,

v.

BRINSON CALEB SILVER et al.,

Defendants.

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Case No. 2:23-cv-512

Judge Sarah D. Morrison

Magistrate Judge Elizabeth P. Deavers

**PLAINTIFFS' MOTION FOR LEAVE TO FILE
SECOND AMENDED COMPLAINT *INSTANTER***

Pursuant to Federal Rule of Civil Procedure 15(a)(2)¹, Plaintiffs Root, Inc., Caret Holdings, Inc., and Root Insurance Agency, LLC (collectively, “Plaintiffs” or “Root”) move the Court for leave to file a Second Amended Complaint *instanter* in order to add one defendant – Quantasy, LLC. Plaintiffs did not include Quantasy, LLC as a defendant in the previously filed complaints. Quantasy & Associates, LLC and Quantasy, LLC (together, the “Quantasy Entities”) consent to the amendment. Further, to avoid unnecessary and additional briefing on a motion to dismiss, Root, William Campbell, and the Quantasy Entities stipulate that the motion to dismiss and reply in support submitted by Quantasy & Associates, LLC and William Campbell (ECF Nos. 95, 145) shall be treated as if they were filed on behalf of both Quantasy Entities and William Campbell. The filing of the Second Amended Complaint is therefore an administrative matter and should not disrupt the case schedule. A memorandum in support of this motion is attached.

¹ Root would have amended its complaint under Federal Rule 15(b) with consent of Quantasy Entities and William Campbell, and without leave of Court, but Root could not obtain consent from the unrepresented defendants: Brinson Caleb Silver, Collateral Damage, LLC, Eclipse Home Design, LLC, and Paige McDaniel.

Respectfully submitted,

/s/ William D. Kloss, Jr

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Counsel for Plaintiffs

MEMORANDUM

Root seeks to file the Second Amended Complaint, attached hereto as Exhibit A, in order to add Quantasy, LLC as a defendant.² The Court should grant Root leave to amend its complaint because the request is made in good faith, there is no prejudice to defendants, and the amendment is not futile. *Ziegler v. IBP Hog Mkt., Inc.*, 249 F.3d 509, 519 (6th Cir. 2001); *Dana Corp. v. Blue Cross & Blue Shield*, 900 F.2d 882, 888 (6th Cir. 1990). In such cases, leave to amend should be “freely given” when justice so requires. *Foman v. Davis*, 371 U.S. 178, 182 (1962); FRCP 15(a).

First, Root’s request to amend is made in good faith. Root initially sued only one Quantasy entity – Quantasy & Associates, LLC. Root now understands that Quantasy, LLC is a signatory to certain agreements relevant to the dispute, and so is requesting leave to clarify this in the Second Amended Complaint. Root has therefore determined that Quantasy, LLC is a proper defendant and now submits this motion to correct the pleadings.

Second, the amendment will not prejudice defendants. Root, William Campbell, and Quantasy, LLC and Quantasy & Associates, LLC (the “Quantasy Entities”) stipulate that for the pending motion to dismiss and accompanying briefing (ECF Nos. 94 (Motion to Dismiss), 135 (Response), and 145 (Reply)), “Quantasy” shall mean both Quantasy Entities. (Joint Stipulations, attached as Exhibit B.) Thus, there is no need for new responsive pleadings on behalf of the Quantasy Entities and William Campbell and the litigation may continue to run its course with little to no disruption. Furthermore, the Quantasy Entities are affiliated companies and have the same legal counsel. Counsel for the Quantasy Entities has no objection to the filing of the Second Amended Complaint.

² The Exhibits to the Second Amended Complaint were previously filed with the Court, ECF Nos. 20-1 – 20-42.

Third, Root's amendment to add Quantasy, LLC as a party is not futile. A motion to amend the complaint is futile if the new allegations cannot withstand a motion to dismiss. *Riverview Health Inst. LLC v. Med. Mut. of Ohio*, 601 F.3d 505, 512 (6th Cir. 2010). Here, the motion to dismiss is pending before the Court. Root only seeks to include all proper parties; it does not seek to revive its complaint from a potential dismissal or substantively change the allegations therein. This is apparent from the Second Amended Complaint, which is substantively identical to the First Verified Amended Complaint. For the foregoing reasons, Root respectfully requests the Court grant leave to file the attached Second Amended Complaint.

Respectfully submitted,

/s/ William D. Kloss, Jr.

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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served on this 6th day of September 2023, via CM/ECF upon all counsel of record for Quantasy & Associates, LLC, Quantasy, LLC and William Campbell, and via regular mail upon Paige McDaniel, Brinson Caleb Silver, Collateral Damage, LLC, and Eclipse Home Design, LLC as set forth below:

Paige McDaniel

5576 Alexanders Lake Rd.
Stockbridge, GA 30281

Brinson Caleb Silver

Butler County Jail
Attn. Brinson Caleb Silver
Inmate # 303850
705 Hanover Street
Hamilton, OH 45011

Collateral Damage, LLC

101 N. Brand Blvd.
11th Floor
Glendale, CA 91203

Eclipse Home Design, LLC

651 N. Broad Street
Suite 201
Middletown, DE 19709

/s/ William D. Kloss, Jr.

William D. Kloss, Jr. (0040854)